

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JOSEPH HEIM,

Plaintiff

v.

DAUPHIN COUNTY PRISON, *et al.*,

Defendants

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CIVIL NO. 3:CV-10-1491

(Judge Caputo)

O R D E R

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Presently before the Court is Joseph Heim's second Motion for Appointment of Counsel in this matter. Doc. 82. It is nearly identical to his original request for counsel. The Court denied Mr. Heim's first request for counsel. See Doc. 78. For reasons cited in our earlier June 17, 2011, order denying Plaintiff's first motion for appointment of counsel, we will deny his second request.

Plaintiff has recently filed an Amended Complaint. See Doc. 81. Having reviewed the Amended Complaint, complete with legal citations, his ability to present said claims, and the complexity of the legal issues involved, the Court finds the appointment of counsel in this matter is not warranted at this juncture. See *Tabron v. Grace*, 6 F.3d 147, 155, 156-157 (3d Cir. 1993)(stating factors to be considered in deciding motion for appointment of counsel). Additionally, the Court notes that we have recently directed service of the Amended Complaint on the newly named defendants. Defendants will either challenge the legal basis of the

amended complaint or file an answer. It is not until these matters are resolved will the Court be able to more thoroughly examine the threshold question of the arguable factual and legal merit of Mr. Heim's claims for the purpose of appointing him counsel. There is no evidence, at this point, that any prejudice will result in the absence of counsel, especially given the very early procedural posture of this case.

Accordingly, Mr. Heim's second request for counsel will be denied. In the event, however, that future proceedings demonstrate the need for counsel, the matter may be reconsidered, either by the court on its on motion, or upon another motion filed by Plaintiff.

AND NOW, this 4th day of **AUGUST, 2011**, it is ordered that Mr. Heim's Second Motion for Appointment of Counsel (doc. 82) is denied.

/s/ A. Richard Caputo
A. RICHARD CAPUTO
United States District Judge